

Members

Rep. Robert Bischoff, Chairperson
Rep. Paul Robertson
Rep. Robert Cherry
Rep. Dan Leonard
Sen. Ryan Mishler
Sen. Greg Walker
Sen. James Lewis
Sen. Richard Young



NATURAL RESOURCES STUDY COMMITTEE

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Authority: IC 2-5-5-1

MEETING MINUTES¹

Meeting Date: October 5 and 6, 2009
Meeting Time: 1:00 P.M. on the 5th; 9:00 A.M. on the 6th
Meeting Place: Falls of the Ohio State Park, Interpretive Center
Meeting City: Clarksville, Indiana
Meeting Number: 2

Members Present: Rep. Robert Bischoff, Chairperson; Rep. Paul Robertson; Rep. Robert Cherry; Rep. Dan Leonard; Sen. James Lewis; Sen. Richard Young.

Members Absent: Sen. Ryan Mishler; Sen. Greg Walker.

Representative Bischoff (Chairperson) called the meeting to order at 1:25 p.m.

Overview of the Falls of the Ohio State Park

Allen Goldstein, Department of Natural Resources (DNR), Interpretive Naturalist, provided an overview of the Falls of the Ohio State Park. The park was established in 1990 and the Interpretive Center was built in 1994. The park is visited by approximately 10,000 to 11,000 school children each year, who comprise the majority of the visitors to the park. The park's themes focus on geology; Native Americans; natural history; and local culture. The park also includes the George Rodgers Clark cabin which is located approximately one mile west of the Interpretive Center.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Dani Cummins, Executive Director of the Falls of the Ohio Foundation, provided an overview of the Foundation, which is a nonprofit support group with a 20-member volunteer board. The Foundation is currently raising funds to update the exhibits in the Interpretive Center. Ms. Cummins indicated that the exhibits have a 10 to 15 year life span. The Foundation has raised approximately \$2.1 million.

Hanna Creek Remediation

Bill Beglin, representing the Brookville Lake Sailing Association, provided a PowerPoint presentation. (Exhibit 1). Hanna Creek, which is located in Union County, is popular because it is close to Brookville Lake's northern no wake/fishing zone. The facility includes 192 parking spaces and 76 boat slips. Silting will cause the infrastructure (e.g. marina, boat ramps) at the facility to become unusable unless some remedial action is taken.

Mr. Beglin described why remediation at Hanna Creek should be funded. The area contains significant infrastructure and high utilization rates. The silt deposition location is controllable, lending itself to a long term solution. Hanna Creek cove sits above the main lake body elevation, which lends itself to silt re-direction to areas of greater depth.

Mr. Beglin testified that Geotubes could be installed to help re-direct the silt. Geotubes are mesh-like tubes that are approximately 7.5' high and 20' wide. The Geotubes are designed for shoreline protection. He indicated that dredging would be required near the boat slips and boat ramps.

Mr. Beglin stated that a short term solution would include low ground pressure grading, which could be implemented when the lake is at its winter pool level. The cost for the short term solution would be approximately \$25,000 and that work could be completed in early spring 2010.

In response to a question from Representative Cherry, Mr. Beglin indicated that the cost for the long term solution would be approximately \$500,000 to \$750,000.

John Davis, DNR, Deputy Director, testified that he agreed with Mr. Beglin's assessment of what needs to be done at Hanna Creek. The dredging would have a minimal effect on the wildlife downstream. However, DNR would be reluctant to dredge without some type of erosion management upstream.

The Chairperson asked what happens to the silt that is dredged. Mr. Davis responded that the silt contained little monetary value. It is expensive to haul the silt and the trucks used to haul it damage the roads. Although some farmers would take the silt, the silt would have to be dried and farmers would require the silt be spread over a particular area rather than having it dumped in a pile on their property.

The Chairperson asked what is the proposed time-frame of this project. Mr. Davis indicated that DNR has completed some preliminary engineering studies. Mr. Davis then stated that the remediation was a matter of funding.

Representative Leonard asked about the life-span of Geotubes. Mr. Beglin responded that the Geotubes would last many years and the silt will not build up behind them.

Gate Fees at Brookville Lake

Senate Bill 416-2009 (Exhibit 2) was distributed to the members of the Natural Resources

Study Committee (Committee). Senator Jean Leising stated that the bill she introduced last year would establish a pilot program which would require DNR to transfer to the Franklin County fiscal body 10% of all gate fees collected at Brookville Lake. The money would be used by local emergency assistance providers. Senator Leising indicated that the gate fees for Brookville Lake are approximately \$160,000 to \$170,000 per year. Under her proposal, approximately \$16,000 per year would go to the Franklin County fiscal body.

Senator Leising testified that she was concerned about Franklin County's ability to provide emergency services at Brookville Lake. The county does not own a boat. In addition, the Franklin County Sheriff's Department does not have anybody certified for diving operations. Senator Leising stated that DNR is unable to continually maintain a boat on the lake.

Representative Cherry urged Senator Leising to check with the Indiana Department of Homeland Security regarding grants or loans that may be available for the Franklin County Sheriff's Office. He then expressed concern that the terms of Senator Leising's proposal would be expanded to other DNR properties.

The Chairperson requested the Legislative Services Agency (LSA) to report back at the next meeting regarding grants available through the Indiana Department of Homeland Security that may be used to assist local law enforcement agencies with situations similar to those in Franklin County.

Mr. Davis indicated that DNR relies on the gate fees and camping fees to support approximately 60% of its cost of operation.

Major Felix Hensley of the DNR Law Enforcement Division testified that the Franklin County Sheriff's Office may apply for a Lake and River Enhancement (LARE) Grant. The LARE fee is divided among law enforcement, watershed enhancement, and river and lake maintenance. He stated that there are currently eight counties participating in the law enforcement program. Major Hensley stated that the grant may be used for the purchase of watercraft that meet certain criteria.

Brookville Trout Fishing Update

Jim Suhre of Brookville testified against a catch and release policy and the proposed placement of boulders in the Whitewater River in Brookville. He indicated that the proposal was instigated by a group known as Trout Unlimited. The placement of boulders would jeopardize the use of the river by canoeists. Mr. Suhre was concerned that Trout Unlimited was able to circumvent the DNR regarding the placement of boulders by obtaining permits from the U.S. Army Corp. of Engineers.

The Chairperson indicated that the Advisory Council of the Natural Resources Commission is meeting October 8, 2009 in Brookville to discuss this matter. Mr. Davis indicated that Trout Unlimited has dropped the request to place boulders in the river.

Senator Young asked about the catch and release policy. Mark Reiter, of the DNR Fish and Wildlife Division, stated that the catch and release policy is used in certain areas around the state to protect fish populations. The catch and release areas are generally very small.

The Chairperson indicated that the Whitewater River is a treasure for the residents of Brookville. He expressed concern over the proposed catch and release requirement.

Deer Processing Fund

Mark Crider, DNR, Law Enforcement Division, testified about the DNR's efforts to raise money for the state sportsmen's benevolence account established under IC 14-9-5-4. He indicated that DNR has raised approximately \$17,000. The money is used to process meat donated by hunters. The DNR sells items with the program's logo to raise money for the account.

Debra Treesh, representing Farmers and Hunters Feeding the Hungry (FHFH), testified that the cost to process one deer is about \$75. Because of a shortage of funds, it is difficult for a hunter to find a butcher to process the meat. Ms. Treesh indicated that a hunter with questions regarding where to take a deer for processing can check the FHFH website at www.fhfh.org.

The Chairperson inquired about publicity for the program. Mr. Crider indicated that DNR has issued several press releases to promote the program. However, it is difficult to promote the program when there is uncertainty about where the donations can be processed.

The Chairperson distributed a letter from Feeding Indiana's Hungry (Exhibit 3) which urges support for a deer processing fund to be added to the hunting license fee.

Jack Corpuz, representing the Fish and Wildlife Action Committee, testified in favor of adding one dollar to a deer license to go to the state sportsman's benevolence account.

Joe Bacon of the Indiana Deer Hunters Association testified that a hunter will not shoot a deer beyond what they can use because of the cost to process it. If funded, the program could be a useful tool to control the deer population in Indiana. He also indicated that it should be easier for out-of-season kills to be donated.

Mr. Davis indicated that he was going to address deer issues at the third meeting and would like to make comments regarding this issue at that time. He then indicated that he had concerns about adding one dollar to the license.

Senator Lewis asked whether a voluntary check off was feasible. Mr. Davis indicated that it may be an option and would like to consider this issue and make comments at the third meeting.

TB in Deer Update

Gary Haynes, Director of Legal Affairs for the Indiana Board of Animal Health (BOAH), introduced James Hollis, D.V.M., who is the designated TB epidemiologist for the BOAH. Mr. Hollis provided a PowerPoint presentation. (Exhibit 4). Mr. Hollis stated that Bovine Tuberculosis affects mammals, including cattle, deer, and humans. It is usually transmitted nose-to-nose or by aerosol. It may also be transmitted by ingestion.

Mr. Hollis stated that in September 2008, two cows that were sent to slaughter in Pennsylvania were traced back to a farm in Franklin County after the processor discovered lesions on them. The BOAH conducted caudal fold tuberculin (CFT) tests on the cattle on the originating farm and adjacent farm. The CFT's were negative after being tested twice over a 60 day period. At this time no cattle have tested positive for TB in Indiana.

However, Mr. Hollis stated that there have been three cases in Indiana in which animals on a cervid farm have tested positive for TB. Cervid is a category of animals that includes elk

and various species of deer. The first (index) case was found in Franklin County. The Franklin County cervid farm is no longer in business. Two other cases have subsequently been found on cervid farms located in Wayne and Harrison Counties. Animals on the Wayne and Harrison County farms have links to the index farm in Franklin County. The BOAH has taken steps to depopulate affected animals and are testing cattle within a three mile radius of the index farm.

Chad Stewart of the DNR Division of Fish and Wildlife stated that a human could contract TB by handling or eating undercooked meat. The meat is safe if it is cooked to 175 degrees. It is also safe to consume if it is properly dried.

BOAH has been working closely with DNR to do surveillance for the disease in the wild white-tailed deer population on and around the index herd in Franklin County. Mr. Stewart, also indicated that BOAH and DNR will be conducting extensive surveillance during hunting season. DNR will have sites set up to allow hunters to voluntarily submit deer heads for TB testing.

Mr. Stewart discussed TB cases found in deer and cattle in Michigan and Minnesota.

In response to a question from Senator Young, Mr. Stewart stated that Minnesota is doing well in its effort to eradicate TB. Minnesota was able to catch the problem early and has a low deer density. Minnesota also has a program to buy out cattle herds and provides subsidies for farmers to not raise cattle in certain areas.

Boating Carbon Monoxide Poisoning

Major Hensley provided a PowerPoint presentation (Exhibit 5) regarding the danger of carbon monoxide poisoning to boaters. He discussed a case in Huntington County in which an eight year old girl riding on a swim platform of a boat died from exposure to carbon monoxide. The swim platform is a platform on the aft of the boat that is situated above the exhaust vents.

Major Hensley described the symptoms of carbon monoxide poisoning and indicated that it is similar to the symptoms of sea sickness. He then described a situation known as "teak surfing" in which a boat will pull individuals who are hanging on the swim platform.

Representative Leonard asked whether there was a law to prohibit "teak surfing". Major Hensley stated that DNR could cite the boater under existing laws to address this problem.

Major Hensley then discussed ways to address the danger to boaters. He indicated that manufacturing standards would be the best way to remove the risk of carbon monoxide poisoning. In addition, boater education and law enforcement will help boaters avoid situations like the one that occurred in Huntington County. He stated some boats use smoke stacks to ventilate exhaust above the boat. Mr. Hensley indicated that catalytic converters and CO detection monitors are also helpful.

Rep. Leonard asked whether the low number of carbon monoxide poisoning cases reported in Indiana could be the result of mis-detection. Mr. Hensley stated that it would be hard to distinguish the cause of death with that of a drowning victim and agreed that there may have been cases which went undetected.

General Discussion

The Chairperson then indicated that he was interested in having a discussion pertaining to

the overpopulation of raccoons at the next meeting. The Chairperson then recessed the meeting at 4:50 p.m.

The Chairperson re-convened the meeting at 9:10 a.m. the next morning.

Proposed Paddle Fishing Rule Change

Chris Smith, Director of Legislative Relations for DNR, testified that the rules governing the taking of paddlefish and fishing in the Ohio River have been adopted by the Natural Resources Commission. He then introduced Brian Shoenung, DNR, Natural Science Manager.

Mr. Shoenung said that the Ohio River is the only place where commercial fishing for paddlefish occurs in Indiana. The rule changes are necessary to protect paddlefish populations. Commercial fishermen sell the eggs of paddlefish as a caviar substitute around the world. He indicated that DNR had difficulty attempting to distinguish paddlefish sports fishing with commercial fishing. The new rules prohibit the taking of paddlefish by sport fishing and establish a season for taking paddlefish by commercial fishermen on the Ohio River. In addition, the rules establish a 32 inch size minimum and standards for gill and trammel nets.

Lifetime Hunting and Fishing Licenses

John Davis distributed a handout describing the fiscal impact of lifetime hunting licenses on DNR. (Exhibit 6). The Chairperson also had LSA staff distribute HB 1244-2009 (Exhibit 7) which would have required DNR to make available lifetime hunting and fishing licenses if it had been enacted into law.

Mr. Davis indicated that, before DNR discontinued the sale of lifetime licenses, 48,467 lifetime licenses were sold. Approximately 89% of those licenses are comprehensive hunting licenses. A comprehensive hunting license can be used in lieu of all yearly licenses to hunt. At today's annual hunting fee of \$17, a lifetime comprehensive hunting license could cost as much as \$1,020. Mr. Davis stated that the dedicated fish and wildlife fund is currently losing \$2.4 million annually in revenue from the previous sale of the lifetime comprehensive hunting licenses. He stated that if one out of ten of the non-lifetime licensed hunters purchases a lifetime license, the fish and wildlife fund could see an additional \$1.1 million in lost revenue per year.

Mark Reiter testified that many states are getting out of the business of providing lifetime licenses. He then described how the DNR is looking at ways to bundle different types of licenses at a discount.

Hunting Licenses for Disabled Veterans

Representative Susan Crouch testified in favor of providing disabled veterans with free hunting licenses. HB 1367-2009 (Exhibit 8) was distributed to members of the Committee. The bill would allow a veteran who has a service connected disability to purchase a deer or turkey hunting license at a reduced fee. The fee would be the amount necessary to obtain federal reimbursement funds. Indiana receives approximately \$21 from the U.S. Fish and Wildlife Services for every qualified license.

Mr. Davis testified that DNR was interested in providing opportunities for disabled veterans. However, DNR would not receive federal money if they provided free licenses to

disabled veterans. In response to Representative Robertson, Mr. Davis stated that disabled veterans currently pay \$2.75 for a deer or turkey license.

The Chairperson asked whether the fee was in the Indiana Code. Chris Smith testified that DNR has the ability to set most licensing fees. However, in the case of a disabled veteran, the rate is set by statute.

Representative Cherry asked whether DNR should be allowed to set fees if the federal government increases the amount necessary to receive federal reimbursement. Mr. Davis indicated that may be a feasible solution.

Senator Young commended DNR on its ability to function under the current financial situation and urged DNR to work with Representative Crouch to find a viable solution.

High Hazard Dams

Jerry Veerkamp, representing the Schnellville Conservation Club, testified regarding a change in the law in 2002 which transferred the responsibility for inspecting high hazard dams from the DNR to the dam owners. Current law requires owners to have high hazard dams inspected by an engineer every two years. Mr. Veerkamp stated that this requirement imposes a significant expense on dam owners. He indicated that he would like to have DNR inspect the dams for a minimal fee.

Ken Smith, DNR ,Assistant Director of the Division of Water, provided a PowerPoint presentation (Exhibit 9). There are approximately 1100 dams within the jurisdiction of DNR and about 240 of those dams are considered high hazard dams. Hazard classifications for dams are based on the consequences of failure of the dam. The consequence for failure of a high hazard dam is loss of life and serious damage to homes or commercial buildings. DNR still inspects low or significant hazard dams. The law was changed in 2002 because DNR did not have the capability to timely inspect the high hazard dams.

Mr. Smith stated that the price for inspection of a dam by an engineer varies anywhere from \$3,500 to \$5,000 and the cost could be much higher depending on the complexity of the dam. The cost of inspection could be low compared to liabilities that could occur should the dam fail.

In response to a question from Rep. Leonard, Mr. Smith indicated that DNR could assess a penalty if the dam owner failed to comply with the law regarding dams.

The Committee members discussed ownership of dams by not-for-profit entities. The Committee members then discussed various ways to coordinate dam owners to reduce the cost for the inspection.

Senator Young asked whether DNR provided any training to engineers to inspect dams. Mr. Smith indicated DNR did provide training when the law was changed. He also stated that DNR provides information on its web site. The Committee members then discussed the types of engineering firms that may inspect dams.

The Committee members discussed whether individuals living downstream from a high hazard dam had notice of the dangers of a potential failed dam.

Low Head Dams

HB 1652-2009 (Exhibit 10) was distributed to the members of the Committee. HB 1652-

2009 would have required DNR to mark each in-channel dam with signs and buoys. The Chairperson indicated that this issue was the result of certain accidents involving boaters attempting to navigate the dams.

Ken Smith provided a PowerPoint presentation (Exhibit 11) discussing in-channel dams. He indicated that DNR was currently compiling information on the whereabouts of in-channel dams in Indiana. The dams are generally legacies from the state's early industries. The dams often appear deceptively gentle. However, the water flow pattern at the bottom of these dams are circular with an undertow toward the dam.

Mr. Smith then discussed how surrounding states have addressed this issue. Illinois recently decided to provide rule making capability to the Illinois Department of Natural Resources. However, the rules were rejected during the administrative review process. Wisconsin is focusing on education and offers grants for the removal of certain abandoned dams.

The Chairperson asked where signs could be placed around these types of dams. Mr. Smith stated it was unclear where the signs could be placed because the signs could be washed away if the streams flood. Also, if signs are not placed on all dams, boaters may mistakenly believe that an unmarked dam is safe.

Other Business

The Chairperson stated that the following issues will be discussed at the next meeting:

- Morgan-Monroe back country preservation
- Deer accident reduction plan
- Invasive Species Council update

The Chairperson requested that LSA prepare preliminary drafts of proposed legislation for the next meeting concerning the following issues:

- Allow DNR to set rates for disabled veterans to coincide with federal reimbursement requirements.
- Add one dollar to deer licenses with the proceeds to go to the sportsmen's benevolence account.
- Sales disclosure of high hazard dam risk to home owners located downstream.

The Committee members decided to hold the next meeting in Indianapolis on October 29, 2009. The meeting will begin at 10:00 a.m.

The Chairperson adjourned the meeting at 11:40 a.m.